

Appl. No. 10/635,352  
Art Unit: 3635  
Docket No. 0156-P02890US01

### REMARKS

On November 8, 2004, the Examiner contacted the Applicant's attorney and indicated that the application was subject to a claim restriction. The Examiner requested an oral election, and Applicant's attorney elected Group II (claims 10-12) with traverse.

In the November 19, 2004 office action, the Examiner rejected Claim 10 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,332,657 (Fischer). Claim 11 was rejected under 35 U.S.C. § 103(a) as being obvious over Fischer in view of U.S. Patent No. 5,040,456 (Hayes). Claim 12 was rejected under 35 U.S.C. § 103(a) as being obvious over Fischer in view of Hayes and further in view of U.S. Patent No. 6,516,581 (Paul).

The November 19, 2004 office action and the references cited therein have been carefully considered. In view of the following remarks, Applicant respectfully requests that the Examiner reconsider the rejections of Claims 10-12, and further consider new Claims 16-27.

#### ***Claim Rejections - 35 U.S.C. § 103***

##### ***Claim 10 (Fischer)***

Claim 10 recites "a frame apparatus comprising a plurality of interlocking identically configured pieces, each piece having a first extension and a second extension extending perpendicularly from the first extension, the first extension of each piece having an internal channel adapted to receive the second extension of

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another piece in a telescoping connection, said internal channel in the first extension having a plurality of ratchet teeth configured to mate with a plurality of ratchet teeth on the second extension, wherein said ratchet teeth in the first and second extensions are configured to slidably engage to allow the second extension to slide relative to the first extension into the channel, and further configured to lockingly engage to substantially prevent reverse sliding of the second extension relative to the first extension, such that the second extension is locked in engagement with the first extension."

Fischer teaches a set of construction frames for furniture. The frames do not have "interlocking identically configured pieces", as recited in Claim 1. Instead, Fischer teaches tubular profiles (1, 2) having one configuration, and fittings (4) between the tubular profiles that have a completely different configuration. Fischer also fails to teach or suggest a piece having an internal channel with ratchet teeth. The Examiner considers the sections between indentations (9) to be ratchet teeth. The sections between the indentations (9) are not positively identified or described as any type of fastener or ratcheting element, however.

Applicant notes that certain portions of Claim 10 were not considered by the Examiner in his analysis of Fischer. Some of these portions are directed to the interrelationship of components and describe structure that must be considered. For example, Claim 10 recites "the first extension of each piece having an internal channel adapted to receive the second extension of another piece". This

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Interrelationship is not taught or suggested in Fischer, since the L-shaped fittings (4) do not receive one another. Claim 10 also recites "said internal channel in the first extension having a plurality of ratchet teeth configured to mate with a plurality of ratchet teeth on the second extension." As noted above, Fischer does not teach components with ratchet teeth that mate with one another. Claim 10 further recites "ratchet teeth in the first and second extensions are configured to slidably engage to allow the second extension to slide relative to the first extension into the channel, and further configured to lockingly engage to substantially prevent reverse sliding of the second extension relative to the first extension, such that the second extension is locked in engagement with the first extension." The fittings (4) in Fischer do not interrelate with one another in a locking relationship. The fittings (4) slide into adjacent profiles, but there is no locking relationship between the fittings and profiles.

Lastly, Applicant submits that the indentations (9) extending outside the hollow portions in Fischer are not an "obvious functional equivalent" of the ratchet teeth recited in Claim 10. The indentations (9) are not ratchet teeth. In fact, the function of the indentations (9) are not even explained in Fischer. There is no basis to conclude that the indentations function as ratchet teeth or a fastener equivalent of ratchet teeth. To the extent that the Examiner's Official Notice is based on facts within the Examiner's own personal knowledge, Applicant respectfully requests that the Examiner make such facts of record in the form of an affidavit, as required under 37 C.F.R. § 1.104(d)(2), so that the Applicant is better apprised of the Examiner's

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position to submit a more informed response.

Claim 11 (Fischer, Hayes)

Claim 11 recites a "frame apparatus comprising a plurality of interlocking identically configured pieces, each piece having a first extension and a second extension extending perpendicularly from the first extension, the first extension of each piece having an internal channel adapted to receive the second extension of another piece in a telescoping connection, said first extension of each piece further comprising one or more breakable joints that are configured to be broken apart to change the length of the first section to a desired length."

As noted in the discussion of Claim 10, Fischer fails to teach or suggest interlocking identically configured pieces, each piece having a first extension with an internal channel adapted to receive a second extension of another piece. These deficiencies are not overcome by combining Fischer with the disclosure in Hayes. As an initial matter, Hayes relates to a frame for screen printing and is not analogous or related to the furniture frames in Fischer. Therefore, a person interested in practicing or modifying the invention in Fischer would have no motivation to consult Hayes, since the two references are in completely different fields. Assuming that a person were to consult Hayes, Hayes also fails to teach or suggest identically configured pieces, each piece having a first extension with an internal channel adapted to receive a second extension of another piece.

The Examiner indicates that Hayes teaches the use of breakable joints, which

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are disclosed in the form of indentations (35). The indentations (35) are described as a means for retaining an adhesive (Col. 2, lines 41-45). There is nothing to suggest that the indentations (35) are "breakable joints". In fact, the specification suggests that the material around the indentations (35) is made of a strong plastic material, and preferably a carbon reinforced polycarbon plastic. (Col. 2, lines 12-15, 35-36). Carbon reinforced polycarbon plastic generally has flexibility with high tensile strength, and would not be easily breakable. Therefore, Hayes does not teach or suggest breakable joints, and would not lead a person of ordinary skill in the art to add breakable joints to the furniture frames disclosed in Fischer. As a result, Claim 11 would not be rendered obvious by the combination of Fischer and Hayes.

Claim 12 (Fischer, Hayes, Paul)

Claim 12 is dependent on Claim 11 and incorporates all the elements recited in Claim 11. As noted above, Fischer and Hayes fail to teach or suggest interlocking identically configured pieces, each piece having a first extension with an internal channel adapted to receive a second extension of another piece, and breakable joints. These deficiencies are not overcome by combining Fischer and Hayes with the disclosure in Paul. Paul teaches a wall angle for a suspended ceiling grid structure, which is not analogous to the furniture frame in Fischer or the screen printing frame in Hayes. A person interested in practicing or modifying the invention in Fischer would have no motivation to consult Hayes or Paul, since the three

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references are in completely different fields.

The Examiner indicates that Paul teaches the use of indicia being indicative of a finished dimension when an adjacent joint is broken. There is no suggestion that the markings in Paul (Fig. 1) are indicative of a finished dimension. The markings are simply lines which, in and of themselves, are not indicative of a dimension or anything. Moreover, there is no indication that the angle irons have breakable joints. Therefore, Applicant submits that Claim 12 is not obvious over the combination of Fischer, Hayes and Paul.

#### ***New Claims***

Applicant has added new Claims 16-28. Claim 16 recites the frame apparatus of original claim 11 comprising a tubular shell extending transversely from the trim pieces, said shell having an end forming an outer perimeter, said trim pieces interlocking around said perimeter over the end of said shell. Claims 17-26 are directed to a trim frame comprising a first trim piece having a long side and a short side, said short side of said first trim piece comprising an internal channel having a coupling inside the channel, and a second trim piece having a long side and a short side, said long side of said second trim piece extending into the internal channel in the first trim piece in a telescoping relationship, said long side of said second trim piece comprising a coupling slidably engaging the coupling in the short side of said first trim piece. Claims 27 and 28 are directed to a frame apparatus comprising a plurality of interlocking adjacent L-shaped pieces, each L-shaped piece having a

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short side and a long side extending perpendicularly from the short side, the short side of each L-shaped piece having an internal channel, the long side of each L-shaped piece extending into the internal channel of an adjacent L-shaped piece in a telescoping connection, each long side having a first coupling, and each internal channel in each short side having a second coupling that slidably engages one of said first couplings, wherein said first and second couplings are connected in locking engagement. Support for new Claims 16-28 are found in sections of Applicant's specification and drawing figures, including but not limited to paragraphs [0032]-[0037] and Figs. 5-9. Therefore, no new matter has been added in new Claims 16-28.

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**Conclusion**

In light of the foregoing remarks, the Applicant believes that the Examiner's claim rejections should be reconsidered. In addition, Applicant respectfully requests that the Examiner consider new Claims 16-28 and pass this case to issue. The Examiner is encouraged to contact the Applicant's undersigned attorney if the Examiner believes that issues remain regarding the allowability of this application.

Respectfully submitted,

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